

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT S. HUGGINS,

PLAINTIFF,

v.

Case No. 06-12036

U.S. DEPT. OF LABOR
OWCP. DFEC CENTRAL MAIL ROOM
DIST. 9 P.O. BOX 8300
LONDON, KY 40742

Honorable Sean F. Cox

**ORDER DENYING PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND ORDERING SERVICE OF COMPLAINT IN
COMPLIANCE WITH FED. R. CIV. P. 4**

Acting *pro se*, Plaintiff Robert S. Huggins ("Plaintiff") filed this action against the United States Department of Labor on May 3, 2006. Plaintiff's Application to Proceed In Forma Pauperis was granted on June 8, 2006.

On October 16, 2006, Plaintiff filed a Motion for Summary Judgment in which he requests that the Court enter judgment in his favor because the Defendant has failed to file an Answer in response to the summons issued by the Court.

Upon examination of Plaintiff's Motion for Summary Judgment and the docket in this matter, it is clear that Plaintiff has not yet properly served the complaint upon Defendant. The Federal Rules of Civil Procedure expressly provide how the United States and its agencies must be served:

(1) Service upon the United States shall be effected

(A) by delivering a copy of the summons and of the complaint to the United States attorney for the district in which the action is brought or to an assistant United States attorney or clerical employee designated by the United

States attorney in a writing filed with the clerk of the court or by sending a copy of the summons and of the complaint by registered or certified mail addressed to the civil process clerk at the office of the United States attorney and

(B) by also sending a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States at Washington, District of Columbia, and

(C) in any action attacking the validity of an order of an officer or agency of the United States not made a party, by also sending a copy of the summons and of the complaint by registered or certified mail to the officer or agency.

FED. R. CIV. P. 4(i)(1).

The record here, however, reflects that Plaintiff has filed certificates of service in which he states that he has “served” Defendant by placing the complaint, and other orders of the Court, in the United States mail directed to a post office box in Kentucky. Thus, Plaintiff has not properly served the complaint upon Defendant under FED. R. CIV. P. 4(i)(1).

Accordingly, **IT IS ORDERED** that Plaintiff’s Motion for Summary Judgment [Docket Entry No. 8] is **DENIED**.

IT IS FURTHER ORDERED that, pursuant to FED. R. CIV. P. 4(m), if Plaintiff does not properly serve the complaint upon Defendant within 30 days of this Order, Plaintiff’s complaint shall be dismissed without prejudice.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: October 30, 2006

I hereby certify that on October 30, 2006 a copy of the foregoing document was served by ordinary mail upon:

Robert S. Huggins
1303 Annabelle
Detroit, MI 48217

S/Jennifer Hernandez

Case Manager